REMARKS

In response to the Final Office Action dated September 6, 2006, Applicant respectfully requests favorable reconsideration of the above-captioned application in view of the following remarks. Claims 1-15 and 17-50 remain pending in this application. No amendments are presented herein.

Regarding the 35 U.S.C. § 102 Rejection

Claims 1-44 were rejected under 35 U.S.C. § 102(e) as being anticipated by cited U.S. Patent No. 6,412,008 to Fields et al. (referred to below as "Fields"). Applicant respectfully traverses this rejection for the following reasons.

At the outset, the Office Action rejects claims 1-44. However, as claim 16 was canceled without prejudice or disclaimer in a prior Response, the rejection is understood to apply to claims 1-15 and 17-44.

Turning to the rejection, Fields discloses a technique for customizing a network file. Customization of the network file is achieved by distributing the customization tasks between a requesting client 30 and a server 32. Note column 4, lines 1-5 of Fields. In the server side of the process, the server 32 receives an HTTP request from the client 30 that specifies various data, such as a user agent string, various corporate options, and various personal options. The server 32 retrieves and customizes the network file based on the supplied data in the request. The server 32 also can embed return customization information in its response to the client 30. In the client side of the process, the client 30 receives the customized network file including the return customization information from the server 32. The client 30 can then further customize the network file based on the return customization information supplied by the server 32. Note generally column 4, line 65 to column 5, line 17 of Fields.

Independent claim 1 of the present application is reproduced as follows with emphasis:

1. A server system, comprising:

one or more computers;

an application executing on the computers to receive and process client requests; and

a constraint system to constrain operation of the application according to multiple different constraints, the constraint system comprising *a hierarchy of constraint layers*, with each constraint layer containing a set of one or more constraints that customize operation of the application, *wherein the constraint layers in the hierarchy have different respective priorities associated therewith*.

Fields does not disclose or suggest at least the bolded-italicized portions of claim 1 when considered in the context of the claim as read as a whole. Namely, while Fields may impose a plurality of constraints in customizing a network file, Fields nowhere discloses or suggests that these constraints are part of a *"hierarchy of constraint layers,"* wherein *"constraint layers in the hierarchy have different respective priorities associated therewith."*

To illustrate this point, consider the series of flowcharts shown in Figs. 5, 6, and 7A of Fields. Fig. 5 generally shows that the network file is potentially customized based on a user agent string (in step 128), based on corporate options (in step 132), and based on personal options (in step 134). But Fields *does not disclose that these constraints are associated with constraint layers having different respective priorities.* For example, in the illustrative case of Fig. 6, the network file is presumably customized based on a user agent string (in step 164) and then is customized based on personal options (in step 166).

But in Fig. 6, the network file is presumably customized based on personal options (in step 192) and then is customized based on a user agent string (in step 196). As evidenced by this apparent ambivalence in customization order, there is no hint in Fields that any one of the constraint types (user agent string information, corporate options, and personal options) is more important than another. Hence, Fields fails to teach that its constraints form a hierarchy of levels having different respective priorities associated therewith.

In rejecting the "constraint system" clause of claim 1, the Office cites column 4, line 65 to column 5, line 17 of Fields. This portion of Fields has been summarized above. As explained above, this passage does not disclose constraints that are part of a "hierarchy of constraint layers," wherein "constraint layers in the hierarchy have different respective priorities associated therewith."

The Final Office Action addresses the above argument in the following manner:

Applicant's arugments have been fully considered but are not persuasive. Applicant argues in substance that Fields does not disclose a hierarchy of constaint layers.

In response, Fields teaches a system and method for customizing a webpage. Fields teaches the server first customizes the webpage according to the server side customization rules. Then the webpage is sent to the client where the client further applies client side customization (see col. 7 lines 27 – col. 8 line 3). The customization performed on the server prior to the customization performed on the client represents a hierarchy of customization and therefore meets the scope of the claim language. [Note Section No. 4 of the Final Office Action.]

This argument is in error. Even if, for the sake or argument, a hierarchy of constraints can be liberally interpreted to refer to a temporal sequence of customization operations performed by the server and then at the client, claim 1 is directed to "A server

system." This precludes the Patent Office's interpretation of a "hierarchy of constraints" as "customization performed on the server prior to the customization performed on the client." In other words, customization performed by the client cannot be interpreted as an element of a server system.

For at least the above-identified reasons, the Applicant submits that independent claim 1 is neither anticipated nor rendered obvious by Fields. Independent claims 9, 24, 27, and 29 include related subject matter to claim 1. These claims therefore distinguish over Fields for reasons similar to those presented above with respect to claim 1.

The remaining independent claim, i.e., claim 17, is reproduced below in full with emphasis:

17. One or more computer-readable media comprising computer-executable instructions that, when executed, implement a computer software architecture on one or more computers, comprising:

a constraint hierarchy of multiple constraint layers, each constraint layer containing a set of one or more constraints that constrain operation of an application, *the constraint layers being organized within the constraint hierarchy such that a first constraint layer limits a second constraint layer but the second constraint layer does not limit the first constraint layer*; and

a constraint resolver to resolve the constraint layers so that operation of the application is constrained by a set of the constraints in the constraint layers, wherein the constraint resolver is configured to reconcile any conflicts among constraints imposed by different constraint layers.

Fields does not disclose or suggest at least the bolded-italicized portions of claim 17 when considered in the context of the claim as read as a whole. Namely, while Fields may impose a plurality of constraints in customizing a network file, Fields nowhere discloses or suggests that these constraints form "a *constraint hierarchy* of multiple constraint layers," . . . . "the constraint layers being organized within the constraint hierarchy such that *a first constraint layer limits a second constraint layer but the second constraint layer does not limit the first constraint layer.*" For instance, Fields nowhere discloses or suggests that any one of the user agent string information, corporation options, and personal options is more important than the others, such that one of these constraints might limit the other but not vice versa.

Fields also nowhere discloses or suggests a *"constraint resolver to resolve the constraint layers so that operation of the application is constrained by a set of the constraints in the constraint layers, wherein the constraint resolver is configured to reconcile any conflicts among constraints imposed by different constraint layers."* For instance, Fields nowhere discloses or suggests that any of user agent string information, corporate options, and personal options might conflict with each other, and hence, Fields does not disclose any kind of conflict resolution mechanism or protocol. The Office Action identifies column 5, line 55 to column 6, line 55 of Fields as having relevance to the "constraint resolver" element of claim 17. This passage discloses, in part, examples of corporate options and personal options. But, as stated above, Fields nowhere discloses or suggests that the corporate options and personal options might conflict with each other, and hence, this passage does not disclose a conflict resolution mechanism or protocol. The Examiner is respectfully requested to address this specific issue, as the Final Office Action remains silent as to the Applicant's previous arguments directed to this same technical point.

For at least the above-identified reasons, the Applicant submits that independent claim 17 is neither anticipated nor rendered obvious by Fields.

The remaining pending claims are dependent claims. These claims distinguish over Fields at least by virtue of their respective dependencies on the above-discussed independent claims. These claims also recite additional subject matter which is not disclosed or suggested by the Fields document. For at least these reasons, the dependent claims are neither anticipated nor rendered obvious by Fields.

For the above-stated reasons, the Applicant respectfully requests the Patent Office to withdraw the 35 U.S.C. § 102(e) rejection based on the Fields reference.

Regarding the 35 U.S.C. § 103 Rejection

Claims 45-50 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Fields. The Applicant respectfully traverses this rejection for the following reasons.

The Office Action acknowledges that Fields fails to disclose the subject matter of claims 45-50, but nevertheless states that it "would have been obvious for one of the ordinary skill in the art at the time of the invention to modify Fields by arranging the constraints in the order of legally mandated constraints, company mandated constraints, customer constraints, culture constraints, and end user constraints because doing so would customize the file in the same manner since changing the sequence is a design choice and not a patentably distinct feature" [See Section No. 3 of the Office Action.]. First, it is pointed out that the order of constraints can have an effect on the final content of an application. This is because the order defines which components of the application take precedence over others. Second, merely stating that a difference is a "design choice and not a patentably distinct feature" does not constitute a prima facie case of

obviousness. Note for example, the following guidelines set forth by the USPTO at http://www.uspto.gov/web/menu/busmethp/busmeth103rej.htm:

> The rationale may be reasoned from common knowledge in the art, official notice, a known business principle, art-recognized equivalents, or legal precedent established by prior case law. A simple statement that a difference is a "design choice" or "lacks an advantage or unexpected result" is insufficient rationale to support a well written and legally sufficient rejection. These are conclusions, not statements of fact. (emphasis added)

For the above-identified reasons, the Applicant submits that the 35 U.S.C. § 103 rejection is misplaced, and respectfully requests that it be withdrawn.

Conclusion

The arguments presented above are not exhaustive; Applicant reserves the right to present additional arguments to fortify its position. Further, Applicant reserves the right to challenge the alleged prior art status of one or more documents cited in the Office Action.

All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance and such allowance is respectfully solicited. The Examiner is urged to contact the undersigned if any issues remain unresolved by this Amendment.

Respectfully Submitted,

Dated: _12-11-2006_   By: _____

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